IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.178 OF 2005

Mohammed Farooq Abdul Aziz Siddiqui ...Applicant

Versus

State of Maharashtra ...Respondent

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Mr.A.Majeed Memon for Applicant.

Mr.R.Y.Mirza, A.P.P. for Respondent.

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**CORAM: A.M.KHANWILKAR, J.**

**FEBRUARY 7, 2005.**

**P.C.**

1. Heard Counsel for the parties. Perused the record.

2. The Applicant has been arrested in connection with offence registered as C.R.No.192 of 2004 with the Sakinaka Police Station, on suspicion. During the investigation, only two circumstances have been brought on record to indicate complicity of the Applicant. The first

circumstance is the statement of Noor Mohammed/ co-accused that the Applicant paid sum of Rs.1,30,000/- (Rupees One Lakh Thirty Thousand) to the assailants. Insofar as this circumstance is concerned, it has no evidentiary value because statement of co-accused will have no bearing, and cannot be the basis to proceed against the Applicant. The only circumstance then remains, as stated in Paragraph 6 of the reply affidavit, is various deposits made in the bank account. However, there is nothing on record to relate the said deposits with the account of the Applicant or any evidence to suggest that the Applicant had made over the said amount. The deposits made by co-accused Lucky or for that matter by Razia will be of no avail. Razia is relation of Noor Mohammed and there is nothing to suggest that she had made that deposit after receiving the amount from the Applicant. The deposits made by co-accused in the bank account also are of no avail, as there is no evidence to suggest that the amount was made over to them by the Applicant.

3. In other words, prima facie, there is no

legal evidence to indicate the complicity of the Applicant in the commission of the crime. Merely because the offence is serious, that by itself, cannot be the basis to deny bail to the Applicant. Moreover, investigation is complete and the Applicant has deep roots in the Society, as he is permanent resident of Kalyan. Accordingly, the Applicant is granted bail on the following conditions :

(a) The Applicant is granted bail in connection with C.R.No.192/04 registered with Sakinaka Police Station on executing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with two local sureties in the like amount.

(b) The Applicant shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

(c) The Applicant shall attend the concerned Police Station, as and when called upon.

(d) The Applicant shall extend full

co-operation to the Trial Court for early disposal of the trial and if the Trial Court is of the opinion that the Applicant is responsible for the delay of the trial, that fact be recorded in the Roznama, which will be a ground for cancellation of bail.

4. Application disposed of on the above terms.

A.M.KHANWILKAR, J.